THE HONOURABLE SRI JUSTICE
GODA RAGHURAM
AND
THE HONOURABLE SRI JUSTICE
S.ANANDA REDDY

WRIT PETITION No. 26182 of 2006

Dated: 10-8-2007

Between:

C.A.Venkateswarlu

…Petitioner

and

The District Judge, Kadapa and others

…Respondents.

ORDER: (Per Goda Raghuram, J)

In substance, the petitioner seeks promotion to the category of Junior Assistant with effect from the date on which the 3rd respondent was so promoted on the ground that the 3rd respondent is junior to him.

The petitioner joined service as Process Attender in December, 1982 and was thereafter temporarily appointed on transfer as Record Assistant by proceedings dated 4-7-1988. While so, he was again appointed temporarily on transfer as Reader by proceedings dated 21-8-1991. On account of allegations of misconduct and after a due process of enquiry, by the order of the 1st respondent dated 7-6-2001, the petitioner was visited with the penalty of reversion to the post of Record Assistant. The petitioner preferred an appeal thereagainst and the 2nd respondent by the appellate order dated 7-10-2002 after concurring with the 1st respondent as to the guilt of the petitioner of the charges against him, nevertheless modified the punishment imposed to that of reversion for a period of three years. The appeal was protanto allowed.

Consequent on the appellate order, the 1st respondent in the proceedings dated 20-10-2004 responding to the representation of the petitioner, ordered re-promotion of the petitioner as an Examiner of Copies with restoration of seniority in the said category.

Earlier on 17-8-1990 the petitioner while serving as Record

Assistant represented for promotion/appointment as a Lower Division Clerk on the ground that he has graduate qualification. This representation was rejected by the 1st respondent. Thereupon the petitioner represented further to the 2nd respondent. The 2nd respondent by the communication dated 11-10-1990 observed that as the post of Record Assistant is not a feeder post to the post of L.D.Clerk under the Andhra Pradesh Judicial Ministerial Service Rules (for short 'the APJMS Rules'), the petitioner cannot claim appointment as a L.D.Clerk on account of his higher qualifications and ignoring the claim of about 30 persons who were seniors to him and are otherwise qualified to hold the post of L.D.Clerk.

In this writ petition and on the basis of the restoration of his seniority in the category of Examiner of Copies pursuant to the 1st respondent's order dated 20-10-2004 which is again pursuant to the order of the 2nd respondent allowing the appeal, the petitioner claims promotion to the post of L.D.Clerk/Junior Assistant on par with the 3rd respondent on the ground that the 3rd respondent is junior to him in the feeder category of Examiner of Copies.

The 1st respondent has filed a counter-affidavit. The counter states that pursuant to the orders of the 2nd respondent dated 7-10-2002, limiting the period of the petitioner's reversion to the post of Record Assistant for three years and on the expiry of the said period, the petitioner was considered for promotion. The 3rd respondent was promoted as Junior Assistant on 11-9-2002 during which period the petitioner was factually undergoing the penalty of reversion as Record Assistant. Hence he could not and cannot be considered for promotion to the post of Junior Assistant on par with the 3rd respondent. With regard to the petitioner's

general claim for promotion as Junior Assistant, the 1st respondent's counter states that as per Rule 6 of the APJMS Rules, appointment to the post of Junior Assistant is *inter alia* is by direct recruitment and by promotion of Examiners (Category 7); Copyists (Category 8); and Field Assistants (Category 9) from a combined seniority list. A combined seniority list of these categories were prepared whereat the petitioner is placed at Sl.No.15 as per his original seniority in the category of Examiner of Copies. On
20-10-2004, (5) posts of Junior Assistants were filled up and later (13) posts of Junior Assistants were filled up by promotion in view of the requirement of the rule of Reservation for Scheduled Caste and Scheduled Tribe candidates. The counter proceeds that since the rule of Reservation provided was to be effectuated despite the writ petitioner being senior to the above mentioned persons, he could not be considered for promotion, as those persons belong to the Scheduled Caste and Scheduled Tribe communities and had to be preferentially promoted under the rule of Reservation. The counter states that the petitioner would be considered for promotion in the course of time and as per his eligibility and seniority.

The petitioner's substantive grievance, for promotion to the post of Junior Assistant on par with the 3rd respondent does not commend acceptance. As is apparent from the averments in the counter-affidavit which have not been denied, the 3rd respondent was promoted in September, 2002 as a Junior Assistant at which point of time the petitioner was actively suffering the penalty of reversion to the post of Record Assistant, a post which is not a feeder post for promotion to the category of Junior Assistant.

There are no merits in the writ petition and the same is

accordingly dismissed. There shall be no order as to costs.

GODA RAGHURAM, J

S.ANANDA REDDY, J

10th August, 2007
GRR